



MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF CHULA VISTA

AND

LOCAL 2180  
INTERNATIONAL ASSOCIATION  
OF  
FIRE FIGHTERS  
AFL - CIO

JULY 1, 2005 – JUNE 30, 2010

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MEMORANDUM OF UNDERSTANDING CONCERNING WAGES AND OTHER TERMS AND  
CONDITIONS OF EMPLOYMENT BETWEEN THE CITY OF CHULA VISTA AND LOCAL 2180,  
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AFL-CIO, FISCAL YEARS 2005-2010.

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## **SECTION I            ADMINISTRATION**

### **ARTICLE 1.01        PREAMBLE**

This Memorandum of Understanding (MOU) is entered into by the City of Chula Vista, (City) and the International Association of Fire Fighters, (Local 2180), as a result of meeting and conferring in good faith concerning the wages, hours and other terms and conditions of employment, pursuant to the Employer-Employee Relations Policy of the City of Chula Vista and to the California Government Code Section 3500 et. seq. known as the Meyers-Milias-Brown Act.

### **ARTICLE 1.02        RECOGNITION**

The City recognizes Local 2180 as the certified representative for safety employees in the City of Chula Vista who are employed in the classifications of Fire Fighter, Fire Engineer and Fire Captain, hereinafter referred to as "represented employees" or "employees."

### **ARTICLE 1.03        CITY RIGHTS**

Local 2180 agrees that the City has the right to unilaterally make decisions on all subjects that are outside the scope of bargaining.

The exclusive rights of the City shall include, but not be limited to, the right to:

- A. Establish, plan for, and direct the work force toward the organizational goals of the City government.
- B. Determine the organization, and the merits, necessity and level of activity or service provided to the public.
- C. Determine the City budget.
- D. Establish, regulate and administer a merit or civil service system which provides for all types of personnel transactions, including, but not limited to, determining the procedures and standards for the hiring, promotion, transfer, assignment, lay off, retention, and classification of positions in accordance with the City Charter, Civil Service Rules, and established personnel practices.
- E. Discipline or discharge employees for proper cause.
- F. Determine the methods, means, numbers and kinds of personnel, and the job or position content required to accomplish the objectives and goals of the City.
- G. Effect a reduction in authorized positions.
- H. Take actions necessary to carry out the mission of the City in emergencies and in other situations of unusual or temporary circumstances.

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- I. Continue to exercise efficient and productive management practices consistent with federal and state laws and in compliance with the City Charter and City ordinances.

Terms and conditions set forth in this MOU represent the full and complete understanding between the parties. During the term of this MOU, Local 2180 expressly waives the right to meet and confer with respect to any subject covered in this MOU, unless modified through the voluntary, mutual consent of the parties in a written amendment. This MOU terminates and supersedes those partial practices, agreements, procedures, traditions, and rules or regulations inconsistent with any matters covered in the MOU. The parties agree that during the negotiations that culminated in this MOU, each party enjoyed the opportunity to make demands and proposals or counter-proposals with respect to any matter, even though some matters were proposed and later withdrawn, and that the understandings and agreements arrived at after the exercise of that right and opportunity are executed in this MOU.

The City's exercise of its management rights is not subject to challenge through the grievance procedure or in any other forum, except where otherwise in conflict with a specific term of this MOU.

#### **ARTICLE 1.04      LOCAL 2180 RIGHTS**

The exclusive rights of Local 2180 shall include, but not be limited to:

- A. Authorized representatives of Local 2180 shall be allowed reasonable access to represented employees at their work locations during working hours for the purpose of consulting with employees regarding the employer-employee relationship, provided that: (1) the work operation and service to the public are not unduly impaired, and (2) the authorized representatives shall have given advance notice to the Fire Chief or his/her designated representative when contacting represented employees during the duty period of the employees. The Fire Chief or his/her designee shall determine the appropriate time for such access.
- B. Local 2180 officers and members of its Board shall be granted use of City facilities for meetings composed of such officers or Board members, provided space can be made available without interfering with City needs, and provided such meetings are conducted at no cost to the City.
- C. Local 2180 may designate up to four (4) representatives (in addition to the President and Vice-President) who will be allowed reasonable access to unit employees.
- D. A reasonable amount of space shall continue to be provided to Local 2180 on City bulletin boards for legitimate communications with represented employees. Local 2180 shall be responsible to maintain space provided in an orderly condition and shall promptly remove outdated materials. Copies of such communications shall be furnished to the Director of Human Resources for review.
- E. The City will continue to provide biweekly payroll dues deductions as authorized by unit employees to Local 2180, and Local 2180 will pay the City \$.10 per member per pay period for the actual costs incurred for dues deduction on behalf of Local 2180. The City will remit the deductions to Local 2180 in a timely manner and will provide Local 2180 a biweekly computer print-out of its members' dues deductions.

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- F. The City shall provide, upon request, such literature and public documents as may be necessary (i.e., City budget, Civil Service Commission meetings, open Council conferences, etc.) when the requested documents are not available on the City's intranet.

## **ARTICLE 1.05      EMPLOYEE RIGHTS**

- I. Employees of the City shall have the right to:
- A. Form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation in matters of employer- employee relations.
  - B. Refuse to join or participate in the activities of employee organizations.
  - C. Represent themselves individually in their employee relations with the City.
- II. Employee Personnel Records:
- A. Represented employees shall be entitled to see the contents of their personnel records. Availability of these records to the employee will be subject to the normal business hours affecting the position or office which has routine custody of these records.
  - B. In Civil Service promotional oral boards used in establishing certification lists for Fire Engineer or Fire Captain, the City agrees not to use documents from employee jackets or other personnel records if such documents or records are more than three years old (unless they are presented by the candidate).
- III. Representation by Local:

Represented employees required to meet with any supervisor(s) in which the purpose or part of the purpose is to discipline the employee, or to discuss the likelihood of future disciplinary action, shall have the right to have a shop steward in attendance if any written record of the discussion will be made by the supervisor(s) or other management personnel. Such meeting shall be preceded by at least 24-hour notification of the time and purpose of the meeting to the employee, provided employees may waive any advance notification if they so choose. A shop steward would not be permitted in meetings for Performance Reports (except ones with an overall rating of Unsatisfactory), reviews or selections or promotion interviews.

## **ARTICLE 1.06      LABOR-MANAGEMENT COOPERATION**

The parties agree that during the term of this MOU, they will continue to support the Pride At Work Program. In addition they will continue to participate in efforts to contain health care costs. The City and Local 2180 agree that they will continue to have open discussions on matters of concern to the parties during the term of this MOU

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## **ARTICLE 1.07      TERM AND EFFECT OF MOU**

- I. This Memorandum of Understanding shall remain in full force and effect from July 1, 2005 through June 30, 2010 and it is understood and agreed that the terms and conditions, wages, and all provisions of this MOU shall continue in effect until a new MOU is negotiated and subsequently ratified by Local 2180 and the City Council. Local 2180 will endeavor to submit written proposals to the City for a successor MOU by March 1, 2010 and the Parties will endeavor to begin negotiating not later than April 15, 2010.
- II. The provisions of this MOU shall be subject to federal, state and local law.
- III. This MOU fully and completely incorporates the understandings of the parties for the full term of this MOU, constituting the sole and entire understanding between the parties. It is further understood, however, that nothing in this MOU prohibits the parties from changing and amending the terms of this MOU during the period of its effectiveness by mutual agreement. Nothing contained in this MOU shall affect rights and privileges of parties as established by the laws of the State of California, as contained in the Government Code of the State of California under those provisions known as the Meyers-Milias-Brown Act, unless specifically referred to herein.
- IV. If at any time during the term of this MOU, through causes beyond the control of the City, the City does not have a sufficient amount of anticipated budgeted revenues or is required to make substantial unanticipated expenditures, then, in such event, the City may, with mutual agreement of Local 2180, re-negotiate this MOU and meet and confer on wages, hours and other terms and conditions of employment. This section, however, in no way affects the existing right of the City to lay off employees.

## **ARTICLE 1.08      MOU REVISIONS**

The City and LOCAL 2180 agree that during the term of the MOU they will continue to meet and confer on non-substantive changes to the format and language of the MOU if necessary. The purpose of the proposed changes is to reconcile the MOU, Civil Service Rules, the Employer/Employee Relations Policy, and other City policies and procedures.

Any proposed changes to the MOU that involve monetary issues will be deferred to meet and confer in 2010, except those issues specifically reserved for discussion during the 2008 reopener period. Additionally, this language will not prohibit the LOCAL 2180 from requesting the City meet and confer on monetary issues where manifest inequities have arisen.

## **ARTICLE 1.09      REOPENER**

This MOU shall be in full force and effect from July 1, 2005 through June 30, 2010. Local 2180 and the City agree that during the third year of the MOU a reopener on issues involving base wages, and the Retirement Health Savings Plan (RHSP) will be initiated. No other issues will be considered during the reopener period. The City agrees that before discussions begin on the reopener issues it will research additional funding mechanisms for the RHSP. Additionally, the City agrees it will conduct salary and benefit surveys and provide the surveys to Local 2180 during the meet and confer period.

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**ARTICLE 1.10      RETENTION OF BENEFITS**

The represented employees covered by this MOU shall retain all benefits provided herein for the full term of this MOU.

**ARTICLE 1.11      GENERAL PROVISIONS**

- I. For the purpose of this MOU, the "Fire Chief" shall mean the chief executive officer of the Fire Department or his/her authorized representative.
- II. For represented employees who were employed by the Montgomery Fire Protection District at the time the area served by the District was annexed to the City, their seniority rights shall begin with their individual hiring dates with the District and all continuous service with the District shall be deemed to be continuous service with the City.
- III. For the purposes of vacation, holidays, sick leave, standby, and differential pay, all represented employees assigned to a 40-hour work week (including a temporary modified duty assignment) shall be eligible for the same benefits under the same terms as employees assigned to the Training Divisions with a 40-hour work week.

**ARTICLE 1.12      SAVINGS CLAUSE**

If any article or section of this MOU shall be held invalid by operation of law or by any court of competent jurisdiction or if compliance with, or enforcement of, any article or section shall be restrained by such court, the remainder of this MOU shall not be affected thereby. The parties shall, if possible, meet and confer or meet and consult as the case may be for the purpose of arriving at a mutually satisfactory replacement for such article or section.



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## **SECTION II            COMPENSATION**

### **SUBSECTION A.    WAGES**

#### **ARTICLE 2.01        WAGES**

- I.     A. Salary Increases – The City shall implement across the board base salary increases, to be effective at the start of the pay period in which the following dates fall:

January 1, 2006	8%	<u>(plus additional 2.5% equity adjustment for Engineers)</u>
January 1, 2007	2%	
July 1, 2007	2%	
January 1, 2008	4%	
January 1, 2009	4%	
January 1, 2010	4%	

- II.    Merit (Step) Increases will be made according to the formula set forth in the Civil Service rules currently in effect. The effective date of exceptional merit increases shall be the beginning of the pay period following approval.

The classifications shall be subject to a five (5) step salary range.

- III.   Effective Dates - All other payroll and wage changes, such as regular merit increases, shall be made effective at the beginning of the regular biweekly payroll period closest to the employee's actual qualifying date.
- IV.   Rate of Pay Following Promotion - When a represented employee is promoted, the new rate of pay will be the lowest step in the new salary range which will result in the employee receiving at least 5% more than the actual base rate of the old classification. Any Firefighter who is promoted through a promotional recruitment to Engineer will automatically be placed at Step D.

#### **ARTICLE 2.02        OVERTIME**

- I.     Whenever employees are ordered, because of an emergency or in the interest of the efficiency of the department, to render overtime service as defined below, they shall be granted overtime pay at the rate of 1-1/2 times their Fair Labor Standards Act (FLSA) "regular rate," or compensatory time off at 1-1/2 times the overtime hours worked (subject to the Compensatory Time provisions in Article 2.03 below).
- A.    Fire Suppression personnel will receive overtime pay or compensatory time off at 1½ time for hours worked in excess of 182 hours in a 24-day work period. Authorized paid time off (e.g. vacation, compensatory time, and sick leave) will be counted as time worked for purposes of calculating overtime.

For Fire Suppression personnel, payment for overtime earned in a given 24-day work period will be made no later than with the pay warrant covering the biweekly pay period during which the work period ended.

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- B. Non-Suppression personnel will receive overtime pay or compensatory time off at one and one-half times hours worked in excess of 40 hours in a 7-day work period. Authorized paid time off (e.g. vacation, compensatory time, and sick leave) will be counted as time worked for purposes of calculating overtime for non-Suppression personnel.

For non-Suppression personnel, payment for overtime shall be made with the pay warrant covering the pay period in which the overtime was earned.

- II. Emergency Holdovers - Employees who are held over more than fifteen minutes beyond the scheduled termination of their work shift due to fire or other emergency calls, shall be paid on a 1 ½ time basis after fifteen minutes to the nearest half hour for all such time worked. "Time worked" shall include staff's preparation of incident reports and such personal or equipment clean-up as is necessary and required by the Fire Chief.
- III. Non-Emergency Holdovers - Employees required to remain on duty more than fifteen minutes beyond the scheduled termination of their shift for other than emergency calls shall be paid on a 1½ time basis after fifteen minutes to the nearest half hour for all such time worked. "Time worked" shall include such personal or equipment clean-up as is necessary and required by the Fire Chief, up to a maximum of 30 minutes of clean-up time.

## **ARTICLE 2.03      COMPENSATORY TIME**

Compensation for overtime with compensatory time in lieu of overtime pay will be at the option of the supervisor and the Fire Chief head, based on the employee's request while recognizing the overall staffing requirements of the department. Approval of such requests shall not be unreasonably withheld. A record of compensatory time earned and utilized shall be maintained on the biweekly pay records. Use of compensatory time will be subject to the same procedures as vacation leave requests i.e. approval of compensatory time off if the employee calls in by 6 a.m. on the day of the shift and no more than eight (8) hours off using annual leave or compensatory time that shift except that requests for vacation leave will have priority over requests for compensatory leave. In the first pay period in September each year, employees shall be paid for any accumulated compensatory time at their regular rate of pay then in effect.

## **ARTICLE 2.04      CALLBACKS**

- A. Employees who are called back to work before the scheduled start of their next regular shift, after having left their work site or at the conclusion of their prior scheduled shift, shall be paid for the actual overtime worked to the nearest half hour, with two (2) hours being the minimum amount paid. The two (2) hour minimum shall not, however, apply under any of the following situations:
- (1) The employee is held over beyond the scheduled termination of his or her work shift (see Article 2.02, II and III.
  - (2) The employee returns to work within two (2) hours of the start of his/her next regular shift.

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- B. The amount of overtime worked shall not include travel time from the employee's home (or other non-work location where he/she was notified of the callback) to the employee's work station or incident scene, whichever location the employee is required to report to first. Similarly, overtime shall not include travel time after the employee leaves his/her work station or incident scene, whichever location the employee reports to last.

## **ARTICLE 2.05      STRIKE TEAM COMPENSATION**

Unit employees who are assigned to continuous non-relief strike team assignments outside San Diego County shall receive premium overtime compensation of one and one-half times the employees regular rate of pay beginning from the end of their first regularly assigned work shift until they return to the fire station. This provision shall only apply in those situations where the City is reimbursed for both the unit member performing on the strike team and the unit member that is backfilling at the station for the strike team member.

## **ARTICLE 2.06      STANDBY**

- I. Definition - Standby duty is defined as that period of time assigned by the Fire Chief, Deputy Chief or Battalion Chief in addition to the employee's normal work week assignment, during which the employee must remain at all times where he or she can be contacted by telephone or beeper, ready for callback to perform an essential service.
- II. Application in Suppression - In addition to his/her regular salary, Suppression personnel shall be compensated with an additional \$50 per each 24-hr shift assigned to standby duties. If a Suppression employee works less than a full shift of standby, he or she shall be compensated \$2.08 per hour assigned to standby duties.
- III. Any callbacks that occur while an employee is on standby duty shall not reduce the amount of standby pay the employee would have earned had there not been a callback. Any overtime or callback pay shall thus be in addition to the standby pay. In terms of FLSA requirements, the parties agree that standby time shall not be counted as hours worked.

## **ARTICLE 2.07      OUT-OF-CLASS ASSIGNMENT**

- I. Employees assigned duty as an Acting Fire Engineer, Acting Fire Captain or Acting Battalion Chief for a period of at least one full regularly scheduled, continuous work shift (24-hour period) shall receive compensation at a rate of five percent (5%) above his other base pay. Payment will be retroactive to the beginning of the first regularly scheduled shift of the out-of-class assignment and will continue until the out-of-class assignment ends, provided the above full-shift minimum is met.
- II. The assignment of Acting Fire Engineer, Acting Fire Captain, Acting Battalion Chief, or shall be made in writing and shall indicate the date and time the assignment begins. If any part of an hour is worked as an out-of-class assignment, the entire hour will be considered an out-of-class assignment.

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## **ARTICLE 2.08      SPECIAL PROJECT PAY**

Local 2180 represented employees may be eligible to receive a maximum of 15% above base pay when assigned by the City Manager to a "Special Project".

## **ARTICLE 2.09      BILINGUAL PAY**

Those employees who, upon verification by the Fire Chief and the Director of Human Resources, and who successfully complete a Bilingual Performance Examination for the following languages: Spanish, Tagalog, Vietnamese, and Japanese, who use their bilingual skills will receive \$200 per month in addition to their regular pay. In order to continue receiving bilingual pay, employees must successfully complete a Bilingual Performance Examination once every three (3) years.

## **ARTICLE 2.10      DIFFERENTIAL PAY**

Represented employees assigned to the Training Divisions or other 40-hour administrative assignment will receive 15% additional compensation over their base wage, effective the first day of the pay-period they assume the assignment.

## **ARTICLE 2.11      MILEAGE REIMBURSEMENT**

Employees shall be subject to the City's Mileage Reimbursement Program when required to use their personal vehicle for authorized City business. The reimbursement rate will be equal to the current maximum IRS rate.

## **ARTICLE 2.12      UNIFORMS**

- I. The City shall during the term of this MOU furnish, repair or replace for unit employees, as determined by the Fire Chief, Class A – Class D uniforms.
- II. All represented employees shall receive \$200 per calendar year for the cleaning and maintenance of uniforms. Payment will be made the first payday following November 1, annually, and will be prorated for individuals not employed for the entire calendar year.

## **ARTICLE 2.13      PROFESSIONAL ENRICHMENT**

Employees represented by Local 2180 are eligible to participate in the City's Professional Enrichment Program. The Professional Enrichment Fund allotment for Local 2180 is \$35,000 each fiscal year. Employees are eligible to receive up to \$1,000 per fiscal year for Professional Enrichment. Funds may be used at any time during the fiscal year. Fiscal year reimbursement under the City's Professional Enrichment Plan will be closed the second Thursday in June. Employees may request professional enrichment expenses in accordance with state and federal law. Employees must receive approval from the Fire Chief, Deputy Chief(s) or their Battalion Chief and the City Manager's designee before funds may be claimed for

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reimbursement. Reimbursements are on a first come, first serve basis until the annual allotment of funds has been exhausted. If more than 35 unit employees apply for Professional Enrichment reimbursement, the annual allotment shall be increased the following fiscal year to an amount equal to the product of \$1,000 times the number of applicants in the proceeding year.

#### **ARTICLE 2.14      EDUCATION INCENTIVE PAY**

- I. Employees represented by Local 2180 shall be entitled to education incentive pay as detailed below:
  - A. Upon verification that a represented employee has completed course work for and received an Associates degree, or completes 30 units of fire science courses or any administrative or technical (i.e. computer, writing) courses in support of the fire service and has five (5) years experience, the employee shall receive \$200 per month in education incentive pay.
  - B. Upon verification that a represented employee has completed course work for and received a Bachelors degree, or completes 30 units of fire science courses or any administrative or technical (i.e. computer, writing) courses in support of the fire service and has ten (10) years experience, the employee shall receive \$300 per month in education incentive pay.
  - C. Upon verification that a represented employee has completed course work for and received a Masters degree, the employee shall receive \$400 per month in education incentive pay.
  - D. The amount of educational incentive pay will not be cumulative.

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**SECTION II            COMPENSATION**  
**SUBSECTION B       BENEFITS**

**ARTICLE 2.15        EMPLOYEE BENEFITS**

I.        Health, Dental and Vision Insurance

Effective January 1, 2005 the City will provide the following benefits to each represented employee:

<b>Annual Cost</b>	<b>Health Insurance</b>			<b>Dental Insurance</b>	
	<b>Kaiser</b>	<b>Non-Kaiser HMO's</b>	<b>Non-Kaiser PPO</b>	<b>Pre-Paid Dental</b>	<b>Dental PPO</b>
<b>Employee Only</b>	City Pays 100% of Premium	Employee Pays \$50 per Month; City Pays Balance of Premium	City Pays an Amount Equal to the City's Share of Non-Kaiser HMO Premium, Employee Responsible for Balance	City Pays 100% of Premium	City Pays an Amount Equal to the Premium for the Pre-Paid Plan, Employee Responsible for Balance
<b>Employee +1</b>	City Pays 100% of Premium	Employee Pays \$50 per Month; City Pays Balance of Premium	City Pays an Amount Equal to the City's Share of Non-Kaiser HMO Premium, Employee Responsible for Balance	City Pays 100% of Premium	City Pays an Amount Equal to the Premium for the Pre-Paid Plan, Employee Responsible for Balance
<b>Employee + Family</b>	City Pays 100% of Premium	Employee Pays \$50 per Month; City Pays Balance of Premium	City Pays an Amount Equal to the City's Share of Non-Kaiser HMO Premium, Employee Responsible for Balance	City Pays 100% of Premium	City Pays an Amount Equal to the Premium for the Pre-Paid Plan, Employee Responsible for Balance

Represented employees who are married to another represented employee have the option of being covered as an Employee Only or as a dependent under their spouse's Employee + One or Employee + Family coverage level.

A.        Enrollment:

1.        Health – Each eligible employee will be covered under the City offered health plan of their choice effective from employee's date of hire in that eligible position. For employees enrolling in Kaiser, the City will pay the full cost of the premium. For employees enrolling in a non-Kaiser HMO, the City will pay the cost of the premium less \$50 per month. For

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employees enrolled in a non-Kaiser PPO, the City will pay an amount equal to the City's share of the non-Kaiser HMO premium. Any difference between the City's share of the health premium and the full premium cost will be paid by the employee through payroll deductions. Employees who fail to submit required benefit election forms within 30 days of the date of eligibility or during open enrollment will automatically be enrolled in the Kaiser-Employee Only plan.

2. Dental – Represented employees will be eligible to participate in any City sponsored group dental plan effective the first of the month following the employee's date of hire. The City will pay an amount equal to the pre-paid dental plan premium for employees who enroll in a dental plan within 30 days of their date of eligibility or during open enrollment. Any difference between the pre-paid dental plan premium and the PPO dental plan premium will be paid by the employee through payroll deductions.

Employees may only change their health or dental coverage levels at open enrollment or upon a qualifying event (marriage, divorce, birth, adoption, etc.).

3. Employee Paid Medical and Dental Premiums Taken as Pre-Tax Payroll Deductions

It is the intent of the parties that participating employees receive the maximum benefit allowable in accordance with IRS regulations. In those cases where the employee pays a portion of the cost, premiums will be deducted from the employee's paycheck on a pre-tax basis as allowed under Sections 125, 105, and 213 of the Internal Revenue Code. If an employee prefers to have the deductions taken on a post-tax basis, he or she must present the request for such change in writing to the Human Resources Department. If the City does not meet IRS requirements, or if IRS regulations change for any reason, this benefit may be discontinued.

4. Vision – Optional

Represented employees will be eligible to voluntarily participate in a City sponsored group vision plan. The premium for the selected plan will be paid by the employee through payroll deductions.

5. Insurance Coverage While on Leave of Absence Without Pay

Represented employees on leave without pay for any reason may continue, at their own expense, their group insurance coverage by paying the full cost of their premium plus a 2% administrative fee.

Upon an employee's return from leave without pay, the employee's benefits will be reinstated to the same benefit level in effect prior to the beginning of the leave without pay status, provided the employee is eligible to receive City benefits. An employee who pays for the cost of his or her insurance while on leave of absence and who returns to work prior to the 15<sup>th</sup> of the month, will not be required to pay their insurance premiums for that month.

6. Termination of Benefits Upon Separation of Employment

An employee's coverage under the City's group medical, dental, and group term life insurance plans is effective through the last day of the month in which the employee's termination is effective.

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Employees may continue their coverage beyond that date, at his or her own expense, in accordance with the federal COBRA law. The cost of COBRA coverage is his or her premium cost plus a 2% administrative fee.

## **II. Flexible Spending Accounts (FSAs)-Health Care and Dependent Care**

Represented employees will be eligible to participate in the two Flexible Spending Account (FSA) options offered by the City. These accounts are allowed by Sections 125, 105, 129, and 213 of the Internal Revenue Code. Employees may elect to set aside a portion of their salary, on a pre-tax basis, to fund eligible health care and dependent care expenses. If the City does not meet IRS regulations, or if the IRS regulations change for any reason, this benefit may be discontinued.

The maximum amounts an employee may set aside are:

\$2,500 for Health Care  
\$5,000 for Dependent Care

These accounts may only be established during the Benefits Open Enrollment period or within 30 days of a qualifying change in family status as defined by the IRS.

Salary deductions will be taken 24 pay periods per year, bi-weekly except for those months with three pay periods, where deductions will only be taken two times.

Reimbursements will be made on a schedule to be determined by the City. Requests for reimbursement must be made on forms provided by the City. Any monies not used by the end of the plan year will be forfeited. Specific details of the plan are provided in the City's Summary of Benefits publication available from Human Resources.

The City reserves the right to contract with a Third Party Administrator for administration of FSAs. The City will pay the start-up costs associated with third party administration. Participating employees will pay any fees (monthly, per employee, or per transaction).

## **ARTICLE 2.16 GROUP TERM LIFE INSURANCE**

The City agrees to pay the premium for \$50,000 of group term life insurance for each represented employee. Represented employees may apply for themselves and their eligible dependents to purchase from \$50,000 to \$300,000 of supplemental group term life insurance in \$10,000 increments through the City's group insurance plan with employees paying the additional cost through payroll deductions.

## **ARTICLE 2.17 RETIREMENT**

The City will provide retirement benefits to represented members via contract with the California Public Employees Retirement System (CalPERS).



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As long as it has the clear legal authority to do so the City agrees to continue Section 414(h)(2) of the Internal Revenue Code relative to employee retirement contributions, which permits employee CalPERS contributions to be treated as deferred compensation.

The City will provide the PERS 3% @50 retirement plan option for safety personnel as provided for under the California Public Employees' Retirement System (CalPERS). In addition to payment of the mandatory employer's contribution to represented employees' retirement benefits, the City agrees to also pay the employee's portion of the PERS contribution, which is presently fixed at 9%.

The City will provide the following CalPERS contract options:

- A. One-Year Final Compensation
- B. Post-Retirement Survivor Allowance
- C. Credit for Unused Sick Leave
- D. 4<sup>th</sup> Level 1959 Survivor Benefit. The monthly member cost for this benefit will be paid by the City.
- E. Military Service Credit as Prior Service
- F. The City will provide Employer Paid member Contributions converted to payrate during final compensation period. .
- G. The City will provide the 3% at 50 Retirement Plan for Local Safety Employees benefit
- H. Cost of Living Allowance (2%)
- I. Post-Retirement Survivor Allowance Continuance
- J. Pre-Retirement Death Benefit for Spouse
- K. Retired Death Benefit \$5,000
- L. Prior Service Credit
- M. Employer Paid Member Contribution

## **ARTICLE 2.18      DEFERRED COMPENSATION**

IAFF members shall be eligible to participate in the City's approved deferred compensation plans offered by the City.

## **ARTICLE 2.19      RETIREMENT HEALTH SAVINGS ACCOUNTS**

- A. All employees will be allowed to participate, on a voluntary basis, in the City's Retirement Health Savings (RHS) plan. The RHS plan will provide employees the option of contributing vacation hours to pre-fund their post-retirement medical costs. IRS regulations limit the uses for which RHS funds may be used after retirement. Employees are advised to carefully review the information provided by the City regarding permitted uses for RHS funds before deciding whether to participate in the plan.
- B. Employees will be permitted to make annual irrevocable elections to contribute a maximum of 80 hours (in 40 hour increments) of prospective annual leave to the RHS plan, provided the employee has a combined vacation and sick leave balance of 480 hours.

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- C. Employees will be permitted to make a one-time irrevocable election to contribute all, or any portion of, their accrued vacation to the RHS plan upon separation or retirement from City service .
  - D. Each part-time employee paid at a biweekly rate shall be entitled to participate in the RHS plan. The number of hours that a part-time employee shall be allowed to contribute shall be in the proportion that the employee's part-time employment bears to full time employment.
  - E. The RHS plan will be administered by a third party administrator. The City will pay the contractual start-up costs associated with third party administration of the RHS plan. Participating employees will pay participant costs. If the City does not meet IRS regulations or if the IRS regulations change for any reason, this benefit may be discontinued.
  - F. The City will continue to research permissible IRS approved funding mechanisms for the RHS plan. Any proposed changes to the RHS plan will be subject to meet and confer during the reopener period in the third year of the MOU.

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## **SECTION III        HOURS**

### **ARTICLE 3.01        WORK PERIOD**

- I.     Fire Suppression - Members of represented classifications assigned to this division shall work on a 56-hour week, three platoon basis. The duty schedule shall include eight (8) 24-hour shifts (totaling 192 hours) in a twenty-four (24) day duty cycle. Each 24-hour shift will begin and end at 7:30 a.m.

The City has enacted the 7K exemption for Fire Suppression personnel as permitted under the Fair Labor Standards Act. This includes a 24-day work period which coincides with the 24-day duty cycle described in the previous paragraph.

- II.    Training Division - Members of represented classifications assigned to this division shall work 40 hours per week.

The work period (week) for non-Suppression personnel is a fixed and regular recurring period of 168 consecutive hours (7 consecutive 24-hour periods). The work week for non-Suppression personnel begins at 12:01 a.m. on Friday morning and ends at 12:01 a.m. the following Friday morning.

### **ARTICLE 3.02        VACATION**

- I.     Miscellaneous

A. Definition - for the purpose of this section the following definitions shall apply:

1. "Continuous service" means City service uninterrupted by separation.
2. "Intermittent service" means City service interrupted by separation.
3. "Time worked" includes actual time worked, holidays with pay, and leave of absence without pay (not to exceed one year) for which worker's compensation is paid. It shall also include Saturdays, Sundays or other regular days off which are immediately preceded or immediately followed by other time worked.
4. "Active service" includes time worked, leaves of absence without pay not to exceed 14 calendar days and leave of absence not to exceed one (1) year for which workers' compensation is paid.

B. Amount of Vacation and Sick Leave Use - Employees assigned to Fire Suppression must take a minimum of two (2) hours of vacation, compensatory time, or sick leave at one time. This two (2) hour minimum shall not apply if the time off occurs within the first two (2) hours or last two (2) hours of the employee's regular shift. During this first two (2) hours or last two (2) hours of the regular shift, the employee will be charged for the actual time taken off.

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## II. VACATION

- A. Vacation Accrual - Continuous Service: Each employee paid at a biweekly rate who has had continuous full-time active service shall be entitled to vacation with pay. The following provisions shall apply:

1. The vacation leave accrual rates shall be as follows:

Years of Service	# of Weeks	Hrs of Supp. Accrual Bi-Week	Hrs of Supp Accrual Yearly	Hrs of Non-Supp Accrual Bi-Weekly	Hrs Non-Supp Accrual Yearly
0-4	2	4.30	112	3.07	80
5-9	3	6.44	168	4.60	120
10-14	4	8.59	224	6.14	160
15+	5	11.08	288	7.70	200

2. Maximum Vacation Accrual -

At no time may an employee have more than two years of vacation leave accumulated (i.e. twice the number of hours accrued annually). No vacation credits shall be accrued above this limit.

- B. Payment upon Separation

At the time an employee is separated from City service, whether voluntarily or involuntarily, he or she shall be granted all of the unused vacation leave to which he/she is entitled based upon his or her active service in prior years, and in addition, he or she shall be granted vacation leave based upon the length of his/her active service during the year in which the separation occurs and computed on the basis set forth in Section (A). Payment shall be made hour for hour with any portion of an hour being considered a full hour.

- C. Vacation Use

Vacation leave balances shall be reduced by the actual time not worked to the nearest quarter hour. Absence may not be charged to vacation, not already accumulated.

- D. Vacation Leave Sell Back

All members of represented classifications who have completed at least four years of service shall have the option of selling one week (56 hours for employees assigned to Fire Suppression and 40 hours for employees assigned to other divisions) of accrued vacation leave back to the City annually. The accumulated vacation leave balance will be reduced accordingly. Payment of vacation leave hours will be made the first payday of any month provided that the Finance Department has received ten working days advance notice of the request prior to payday.

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## ARTICLE 3.03      SICK LEAVE

- A. Accumulated paid sick leave credit is to be used for the sole purpose of protecting the employee's wages in the event absence is made necessary because of disability due to non-industrial injury or illness of the employee, or illness of the employee's immediate family. For the purposes of this article, immediate family is defined pursuant to the Family and Medical Leave Act. Sick Leave may not be used for absences due to an industrial injury or illness except as follows: in the event an employee sustains an industrial injury or illness that requires an absence beyond the one year of paid leave afforded by Labor Code 4850 and it appears, based on the medical evidence, that they will be able to return to full duty within a reasonable time frame, they may be granted an exemption to the non-industrial causation requirement of this section. This determination will be made by the City Manager on the advice of the Fire Chief, Director of Human Resources, and the Risk Manager, based on the medical evidence. If this exemption is granted and the employee fails to return to full duty for any reason other than the disabling condition, they may be required to pay back to the City all salary and benefits provided and accrued during the exemption period if it is determined that the employee is intentionally attempting to defer their retirement beyond the one year of paid leave afforded by Labor Code Section 4850. When an employee is on sick leave, any type of outside employment will not be permitted. The clear intent of this section is to prevent (except in very unusual cases) an employee from deferring his or her retirement beyond the one year of paid leave afforded by Labor Code 4850.
- B. Members of represented classifications assigned to the Fire Suppression Division will accumulate sick leave at the rate of 5.15 working hours for each biweekly pay period of service.
- C. Members of represented classifications assigned to divisions other than Fire Suppression will accumulate sick leave at the rate of 3.68 working hours for each biweekly pay period of service (96 hours annually).
- D. Unused sick leave may be accumulated in an unlimited amount but the City shall have no financial obligation to pay for such accumulated and unused sick leave upon termination from the City for any reason provided, however, this subsection does not abrogate the employee's right to have all unused accumulated sick leave credited to his/her service credits under PERS upon retirement or any rights provided under Section 7 below. In calculating the number of days of service credits under PERS, unused accumulated sick leave hours will be divided by 8.0.
- E. Sick Leave Reimbursement
  - (1) Employees shall have the option of converting 50% of their accumulated unused sick leave for the fiscal year to pay. In calculating the number of hours that could be converted to pay, all computations shall be rounded to the nearest whole hour and the fiscal year will be considered to start and end with the first pay period commencing in July of each year.
  - (2) If the pay option is selected, the paid sick leave hours shall be subtracted from the employee's accumulated yearly sick leave balance. The remaining sick leave hours shall be carried over and accumulated.
  - (3) Payment for sick leave the previous fiscal year will be made during the month of July of each year. Pay will be computed based on the employee's base salary rate on June 15.

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- (4) An employee will not be eligible for sick leave reimbursement under this plan if it would result in the employee having an accumulated sick leave balance of less than the amount that the employee would earn during a two-year period. This restriction shall not apply to subsections (5) and (6) below.
  - (5) Permanent employees who retire during the fiscal year may be compensated in a prorated manner under this plan based on their formal retirement date. Prorated payment may also be made under this plan to an employee who terminates during the fiscal year.
  - (6) In the event of the death of a represented employee while employed by the City, 50% of the employee's total unused accumulated sick leave, after consideration for any reductions allowed under PERS Sick Leave Conversion/Service Credit Policy, will be paid to the appropriate beneficiary.
  - (7) In the event of the death of a represented employee while employed by the City and while performing the duties under his/her job description during a regularly scheduled work period (to include overtime and stand-in work periods), 100% of the employee's total unused accumulated sick leave, after consideration for any reductions allowed under PERS Sick Leave Conversion/Service Credit Policy, will be paid to the appropriate beneficiary.
- F. Sick leave balances shall be reduced by the actual time not worked to the nearest quarter hour. Absences for illness may not be charged to sick leave not accumulated.
  - G. Sick Leave Verification - The City may, in its discretion, require a doctor's certificate or personal sworn affidavit verifying that the employee is unable to perform the duties of his or her job and the nature of the limitations and restrictions due to the disability injury or illness of the employee or illness or injury of immediate family members in order to determine eligibility for use of sick leave.
  - H. The City and Local 2180 agree that Sick Leave is a benefit and not a right. Local 2180 agrees to work with the Fire Chief towards a goal of eliminating sick leave abuse.

#### **ARTICLE 3.04      BEREAVEMENT LEAVE**

When an employee with permanent status is compelled to be absent from work because of the death of an immediate family member, an immediate family member of the employee's spouse, or any other person defined by the Internal Revenue Service as a dependent, and after such employee makes written request and receives written approval from the Fire Chief, the employee may be allowed the privilege to be absent from work with pay for any scheduled work during a period of up to five (5) calendar days, plus reasonable travel time. Travel time will be actual time used not to exceed three (3) calendar days. Paid absence for the death of a family member shall be charged to sick leave. For purposes of bereavement leave, immediate family includes husband, wife, child, stepchild, brother, stepbrother, sister, stepsister, parent, step-parent or any other person serving as parent, grandmother, grandfather, or any other person living in the same household as the employee.

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## **ARTICLE 3.05      HOLIDAYS**

### **I.      Scheduled Holidays**

- A. Employees assigned to the Fire Suppression Division will receive one hundred twenty (120) hours holiday pay at straight time ( 10 hours for each of the 12 holidays described below) each fiscal year. Holiday pay shall consist of approximately 4.60 hours per pay period for each employee in the bargaining unit. All holiday pay for the time period commencing the first full pay period in July 1, 2005, until the date the City Council adopts the MOU, shall be paid in one lump sum during the first full payroll period or as soon as is practical. Pro-rated adjustments will be made for employees of represented classifications entering or leaving the Fire Suppression Division of the Department.
- B. Employees assigned to divisions other than Fire Suppression shall accrue 8 hours of holiday time for each of three (3) floating holidays and 10 hours of holiday time for each of ten (10) hard holidays, only if they work a 4-10 workweek (four ten-hour days). If said employees work a 5-8 work week (five eight-hour days), they shall accrue 8 hours of holiday time for each of the ten (10) hard holidays. Compensation will be administered as designated in the Civil Service Rules, Chapter 2.00, Section 2.01 (D). (Hard holidays are: New Year's Day, Martin Luther King's Birthday, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Day After Thanksgiving, and Christmas Day; floating holidays are: Lincoln's Birthday, Washington's Birthday, and Admission Day.

### **II.     Unscheduled Holidays**

Members of the Fire Department from Fire Fighter through the rank of Fire Captain shall work unscheduled holidays (i.e., special holidays declared by the President or Governor) at their regular hourly rate of pay. If employees have that day off, they will not receive extra compensation for the unscheduled holiday.

## **ARTICLE 3.06      JURY DUTY**

Permanent and probationary employees who are called to serve on jury duty for any county, state or federal court shall be entitled to paid leave under the following circumstances:

- A. The employee must present to his or her supervisor the court order to appear for jury duty at least three weeks prior to the date to report.
- B. The employee must submit a daily court authorized stamped time card accounting for all hours of required service ordered by the court.
- C. If jury service and travel time from court to work is less than five hours (7 hours for person on a 4/10 plan) in a work day, the employee is expected to return to work unless a justification for not returning to work is provided and approved, or pre-authorized leave is approved.
- D. Employees who are required to serve on jury duty on their scheduled days off will not be compensated for this time and may keep any fees paid by the court.

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- E. If the employee is not required to report for jury duty on any particular day(s) he or she is then expected to be at work as per the normal schedule.
  - F. It is the employee's responsibility to inform his or her supervisor on a daily basis if he or she is required to report for jury duty the following day. This may include calling the supervisor after or before normal working hours.
  - G. Absence due to jury duty will be submitted on the City leave form.
  - H. An employee whose work week is other than Monday through Friday (8:00 a.m. to 5:00 p.m.) may have jury duty work day adjustments made by his or her supervisor.

### **ARTICLE 3.07 COURT LEAVE**

Court leave is paid leave granted by the City to enable an employee to fulfill his or her duty as a citizen to serve as a witness in a court action to which the employee is not a party, before a federal, superior, or municipal court located within San Diego County.

Court leave shall be limited to:

- A. Required attendance before federal, superior, municipal, and justice courts located within San Diego County.
- B. Time in attendance at court together with reasonable travel time between court and work if attendance is for less than a full day and the employee can reasonably be expected to return to work.
- C. Court leave shall not be granted when the employee is paid an expert witness fee.
- D. The employee must submit to the City any payment received except travel and subsistence pay for such duty.
- E. Court leave will only be granted to employees who are not litigants in a civil case nor related to litigants in a civil case or defendants in a criminal case.
- F. The Employee shall provide his or her supervisor with a copy of the legal subpoena and provide other documentary evidence of service.
- G. When employees are subpoenaed in the line of duty they shall be guaranteed a minimum of two hours for each separate court appearance, including travel time.

### **ARTICLE 3.08 SHIFT EXCHANGE**

The City agrees to continue to allow the practice of shift exchanges, subject to the provisions of the Fair Labor Standards Act.



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Subject to the Battalion Chiefs approval, employees shall have the right to voluntarily exchange shifts or parts of shifts when the change does not interfere with the operation of the Fire Department. In addition to exchange rank for rank, personnel of a lower classification but of qualified rank may be permitted to exchange shifts.

"Paybacks" of shift trades are the obligation of the employees involved in the trade. Paybacks should be completed within one calendar year of the date of the initial shift trade. Any dispute as to paybacks is to be resolved by the involved employees. The City is not responsible in any manner for hours owed to employees by other employees who leave the employment of the City or are assigned other duties.

A record of all initial shift trades and "paybacks" shall be maintained by the involved employees on forms provided by the department.

### **ARTICLE 3.09      CIVIL SERVICE RULES**

For purpose of this MOU, the Civil Service Rules are incorporated as reference as though set out in full in this article.

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## **SECTION IV            WORKING CONDITIONS**

### **ARTICLE 4.01        PROHIBITED PRACTICES**

- I.    Local 2180 pledges it shall not cause, condone or counsel represented employees or any of them to strike, fail to fully and faithfully perform duties, slow down, disrupt, impede or otherwise impair the normal functions and procedures of the City.
- II.   Should any unit employees breach the obligations of Paragraph 1 during the term of this MOU, the City Manager or his or her designee shall immediately notify Local 2180 that an alleged prohibited action is in progress.
- III. Local 2180 shall as soon as possible, and in any event, within eight working hours disavow any strike or other alleged prohibited action, shall advise its employees orally and in writing to immediately return to work and/or cease the prohibited activity and provide the City Manager with a copy of its advisement, or, alternatively, accept the responsibility for the strike or other prohibited activity.
- IV.   If Local 2180 disavows the prohibited activity and takes all positive actions set forth in this MOU in good faith, the City shall not hold Local 2180 financially or otherwise responsible. The City may impose penalties or sanctions as the City may appropriately assess against the participants.
- V.    Should Local 2180 breach its obligations or any of them under this section during the term of this MOU, it is agreed that the City shall pursue all legal and administrative remedies available to the City that in its discretion it may elect to pursue.
- VI.   There shall be no lockout by the City during the term of this MOU.

### **ARTICLE 4.02        EQUIPMENT RESPONSIBILITY AND PROPERTY REPLACEMENT**

- I.    The City will hold employees harmless for equipment damaged or lost, except for acts of negligence, vandalism, intoxication or other substance abuse.
- II.   Any represented employee who, in the normal course of his/her employment, *suffers damage* or destruction as a result thereof to his/her prescription glasses or wrist watch, shall be entitled to replacement or repair thereof upon investigation and recommendation by such employee's department head, and approval by the City Manager, provided such damage or destruction did not occur as a result of such employee's negligence. Said reimbursement shall not exceed the reasonable value of functional replacement or repair. An employee will be reimbursed up to ~~\$75~~ \$250 or actual cost, whichever is less, for prescription glasses and up to \$50 or actual cost, whichever is less, for watches which are damaged or destroyed.

### **ARTICLE 4.03        DRIVING ELIGIBILITY**

Whenever an employee drives a vehicle for City business he or she shall have a valid California Drivers License. In order to ascertain the validity of the employee's licenses, employees must present their drivers license to their supervisor upon request. The City reserves the right to check at any time with the

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Department of Motor Vehicles to determine if the license is valid. If an employee's drivers license is revoked, suspended or otherwise made invalid, the employee must inform his or her supervisor. Failure to notify the supervisor may result in immediate disciplinary action.

An employee who does not possess a valid California drivers license will be considered for a non-driving position, if one is available in the employee's classification. The non-driving assignment will continue for a maximum of six months if there is a reasonable expectation the employee will have a valid California drivers license at the expiration of that time. Extensions to the six-month limit will be considered on a case-by-case basis, however, in no case shall an employee receive more than one non-driving assignment in any three-year period. When no non-driving assignment is available, employees must request a leave of absence without pay for six months or such time as their license is once again valid, whichever is shorter.

In order to assure that non-driving assignments are provided on a fair and equitable basis, the following procedures shall be observed:

- A. Each department will determine whether or not it has any non-driving assignments that can be filled by employees who would otherwise have driving assignments.
- B. Non-driving assignments will be given on a first come, first served basis. For example, if two employees in a department have non-valid drivers licenses and there is only one non-driving assignment, the first employee who comes forward will be given the non-driving assignment. The other employee may apply for a leave of absence as described above.

#### **ARTICLE 4.04      FITNESS FOR DUTY**

The parties agree that physical and mental fitness of City employees are reasonable requirements to perform the duties of the job and instill public confidence. Recognizing these important factors, the parties agree that during the term of this MOU, the City with reasonable cause, may require medical and psychological assessments of employees provided the City pays for the assessment and provides time off without loss of pay for such assessments. All such assessments shall be done by appropriately qualified health care professionals. It is understood that the assessment regimen performed by the healthcare professionals shall be reasonably related to the requirements and duties of the job.

Any treatment or remedial action recommended as a result of the assessment shall be the full responsibility of the employee, except as otherwise provided by law or as may be provided through the City's Employee Assistance Program (EAP).

#### **ARTICLE 4.05      CONSTANT MINIMUM STAFFING LEVELS**

Effective with ratification of this MOU by Local 2180 and the City Council, the constant minimum staffing level shall be Engines 3.0, Truck 4.0, Light and Air 1.0.

#### **ARTICLE 4.06      STATION MAINTENANCE AND REPAIR**

Employees represented by Local 2180 agree to perform normal fire station maintenance and repair. "Normal

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fire station maintenance and repair” shall not include major construction or renovation projects that are determined by the Fire Chief to be beyond the capability of the represented employees or are projects that would seriously interfere with the ability of represented employees to respond to emergencies. The City agrees to provide materials and equipment necessary to perform the normal fire station maintenance and repairs as provided by this article. The fire station maintenance and repair duties will be performed between 0730 and 1630.

#### **ARTICLE 4.07        SUBSTANCE ABUSE POLICY**

Represented employees are subject to the City's current Substance Abuse Policy.

#### **ARTICLE 4.08        DIRECT DEPOSIT**

All represented employees will be required to provide written authorization to the City’s Director of Finance to electronically deposit their paychecks to a financial institution of their choice. For new employees, the effective date of this article will be the date of hire. For current employees, the mandatory direct deposit program will be phased in so that employees who do not currently have an account with a financial institution will have sufficient time to establish accounts with the financial institution of their choice. The final date for implementation of this program will be December 15, 2005.

#### **ARTICLE 4.09        GRIEVANCE PROCEDURE**

This grievance procedure shall be in effect during the full term of this Memorandum of Understanding.

Section 1.     **PURPOSE.** The purposes and objectives of the Grievance Procedure are to:

- (1)     Resolve disputes arising from the interpretation, application or enforcement of specific terms of this MOU.
- (2)     Encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances through the several supervisory levels where necessary.
- (3)     Resolve grievances as quickly as possible and correct, if possible, the causes of grievances thereby reducing the number of grievances and future similar disputes.

Section 2.     **DEFINITIONS.** For the purpose of this grievance procedure the following definitions shall apply:

- (1)     **Manager:** The City Manager or his/her authorized representative.
- (2)     **Day:** A calendar day, excluding Saturdays, Sundays and hard holidays as described by this MOU.
- (3)     **Department head or head of a department:** The chief executive officer of a department.

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- (4) Director of Human Resources: The Director of Human Resources or his/her authorized representative.
  - (5) Employee: Any officer or regular (not temporary) employee of the City, except an elected official.
  - (6) Employee representative: An individual who speaks on behalf of the employee.
  - (7) Grievance: A complaint of an employee or group of employees arising out of the application or interpretation of a specific clause in this MOU.
  - (8) Immediate supervisor: The individual who assigns, reviews, or directs the work of an employee.
  - (9) Superior: The individual to whom an immediate supervisor reports.

Section 3. REVIEWABLE AND NON-REVIEWABLE GRIEVANCES.

- (1) To be reviewable under this procedure a grievance must:
  - (a) Concern matters or incidents that have occurred in alleged violation of a specific clause in this MOU; and
  - (b) Specify the relief sought, which relief must be within the power of the City to grant in whole or in part.
- (2) A grievance is not reviewable under this procedure if it is a matter which:
  - (a) Is subject to those reserved City Management Rights as stipulated under Section 4 of the Employer-Employee Relations Policy for the City of Chula Vista or under management rights as specified in this MOU.
  - (b) Is reviewable under some other administrative procedure and/or rules of the Civil Service Commission such as:
    - 1. Applications for changes in title, job classification or salary.
    - 2. Appeals from formal disciplinary proceeding.
    - 3. Appeals arising out of Civil Service examinations.
    - 4. Appeals from work performance evaluations.
    - 5. Appeals that have Affirmative Action or civil rights remedy.
  - (c) General complaints not directly related to specific clauses of this MOU.
  - (d) Would require the modification of a policy established by the City Council or by law.

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- (e) Relates to any City group insurance or retirement programs.

#### Section 4. GENERAL PROVISION OF THE GRIEVANCE PROCEDURE.

- (1) Grievances may be initiated only by the employee or employees concerned and may not be pursued without his/her or their consent.
- (2) Procedure for Presentation. In presenting his/her grievance, the employee shall follow the sequence and the procedure outlined in Section 5.
- (3) Prompt Presentation. The employee shall discuss his/her grievance with his/her immediate supervisor within ten (10) working days after the act or omission of management causing the grievance, or within ten (10) working days of when the employee, with the exercise of reasonable diligence, should have discovered the act or omission being grieved.
- (4) Prescribed Form. The written grievance shall be submitted on a form prescribed by the Director of Personnel for this purpose.
- (5) Statement of Grievance. The grievance shall contain a statement of:
  - (a) The specific situation, act or acts complained of as an MOU violation;
  - (b) The inequity or damage suffered by the employee; and
  - (c) The relief sought.
- (6) Employee Representative. The employee may choose someone to represent him/her at any step in the procedure. No person hearing a grievance need recognize more than one representative for any employee at any one time, unless he/she so desires.
- (7) Handled During Working Hours. Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.
- (8) Extension of Time. The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
- (9) Consolidation of Grievances. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances shall, whenever possible, be handled as a single grievance.
- (10) Settlement. Any complaint shall be considered settled without prejudice at the completion of any step if all parties are satisfied or if neither party presents the matter to a higher authority within the prescribed period of time.
- (11) Reprisal. The grievance procedure is intended to assure a grieving employee the right to present his/her grievance without fear of disciplinary action or reprisal by his/her supervisor,

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superior or department head, provided he/she observes the provisions of this grievance procedure.

- (12) Back pay. The resolution of a grievance shall not include provisions for back pay retroactive further than twenty (20) working days prior to the date the grievance is filed. However, if with the exercise of reasonable diligence the act or omission being grieved was not discovered within 10 working days of its occurrence, and the grievance is subsequently timely filed pursuant to Section IV (3), then the resolution of the grievance may include provision for back pay for a maximum period of one year from the date the grievance was filed.

Section 5. GRIEVANCE PROCEDURE STEPS. The following procedure shall be followed by an employee submitting a grievance pursuant to policy:

**Step 1** Discussion with Supervisor.  
The employee shall discuss his/her grievance with his/her immediate supervisor informally. Within three (3) working days, the supervisor shall give his/her decision to the employee orally.

**Step 2** Written Grievance to Superior.  
If the employee and supervisor cannot reach an agreement as to a solution of the grievance or the employee has not received a decision within the three (3) working days' limit, the employee may within seven (7) working days present his/her grievance in writing to his/her supervisor who shall endorse his/her comments thereon and present it to his/her superior within seven (7) working days. The superior shall hear the grievance and give his/her written decision to the employee within seven (7) working days after receiving the grievance.

**Step 3** Grievance to Department Head.  
If the employee and superior cannot reach an agreement as to a solution of the grievance or the employee has not received a written decision within the seven (7) working days' limit, the employee may within seven (7) working days present his/her grievance in writing to his/her department head. The department head shall hear the grievance and give his/her written decision to the employee within seven (7) working days after receiving the grievance.

**Step 4** Grievance to Director and Manager.  
If the grievance is not settled at the department head level, it may be submitted by the Association Representative within twenty (20) working days to the Personnel Director, who shall investigate and report his/her findings and recommendations to the City Manager within ten (10) working days. The City Manager shall provide his/her answer within ten (10) additional working days. The times indicated may be extended by mutual agreement. Any Employee grievance will be filed with the Association Representative at Step 4.

Following the submission of the City Manager's answer, and before going to Section 6, Advisory Arbitration, matters which are unresolved shall be discussed at a meeting between the parties during which all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation.

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Section 6.     **ADVISORY ARBITRATION.**

Any dispute or grievance which has not been resolved by the Grievance Procedure may be submitted to advisory arbitration by the Association Representative or the City without the consent of the other party providing it is submitted within ten (10) working days, following its termination in the Grievance Procedure. The following Advisory Arbitration procedures shall be followed:

- (1)     The requesting party will notify the other party in writing of the matter to be arbitrated and the contract provision(s) allegedly violated. Within five (5) working days of the receipt of this notice, the parties may agree upon an arbitrator, or a panel of three arbitrators trained in conducting grievance hearings.

If agreement on an arbitrator cannot be reached the State Department of Industrial Relations shall be requested by either or both parties to provide a list of five arbitrators. Both the City and the Association shall have the right to strike two names from the list. The party requesting the arbitration shall strike the first name; the other party shall then strike one name. The process will be repeated and the remaining person shall be the arbitrator.

- (2)     The arbitrator shall hear the case within twenty (20) working days after the arbitrator has been selected. The arbitrator may make a written report of their findings to the Association and the City within fifteen (15) working days after the hearing is concluded. The arbitrator shall make rules of procedure. The decision of the arbitrator shall be advisory to the City Manager who shall render a final decision within ten (10) working days.

The arbitrator shall have no authority to amend, alter or modify this MOU or its terms and shall limit recommendations solely to the interpretation and application of this MOU. The above time limits of this provision may be extended by mutual agreement.

- (3)     Each grievance or dispute will be submitted to a separately convened arbitration proceeding except when the City and the Association mutually agree to have more than one grievance or dispute submitted to the same arbitrator.
- (4)     The City and the Association shall share the expense of arbitrators and witnesses and shall share equally any other expenses, including those of a stenographer, if required by either party. If either party elects not to follow the advisory decision rendered by the arbitrator, that party shall pay the entire cost of the arbitration process, including the expense of the arbitrator, witnesses and/or stenographer.



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David D. Rowlands, Jr.  
Chief Negotiator  
City Of Chula Vista

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IAFF Local 2180  
Chief Negotiator

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Kelley Bacon,  
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